



IT IS ORDERED as set forth below:

Date: October 29, 2019

A handwritten signature in black ink that reads "James R. Saccia".

James R. Saccia
U.S. Bankruptcy Court Judge

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

| | | |
|--------------------------|---|-----------------------|
| IN RE: |) | CHAPTER 11 |
| |) | |
| WBY, INC. D/B/A FOLLIES, |) | Case No. 16-52291-JRS |
| |) | |
| Debtor. |) | CONTESTED MATTER |
| |) | |

**ORDER SETTING RESERVE FOR CLASS C CLAIMANTS
UNDER CONFIRMED PLAN OF REORGANIZATION**

This matter is before the Court on the Debtor's Motion for Order Estimating Certain Contingent or Unliquidated Claims Under Bankruptcy Code Sections 105(a) and 502(c) (the "Motion") [Doc. #560]. The practical purpose of the Motion is to establish the amount of the reserve required for Class C claimants (the "Reserve") under Debtor's Amended Plan of Reorganization confirmed by this Court on December 22, 2016 (the "Plan"). The Class C Claimants under the Plan are Mikki Williams, Karella Van Hook, Jessica Saunders, Hailey Lytle, Grace King, Ebony Yarbrough, Cydney Bell, Courtney Sacdalan, Shanteria Cameron, Toni Davis, Samantha Schaffer, Rodrinna Brooks, Constance Smith, Courtney Ellington, Noelle Greene, Soraya Barker and Brezzy Hurst. Their claims are

the subject of several different actions pending in the United States District Court for the Northern District of Georgia (the “District Court”) wherein they generally assert that the Debtor violated the Fair Labor Standards Practices Act (collectively, the “FLSA Actions”). The Debtor is generally required to fund the Reserve at a rate of \$100,000 per month under the Plan.

The Court considered all matters of record, including multiple days of testimony, deposition transcripts, documentary evidence and stipulations submitted by the parties along with oral argument, briefs and other papers and pleadings. For the reasons stated on the record on October 24, 2019, the Court has determined that the amount of the Reserve under the Plan as of that date should be \$2,125,000, consisting of \$1,050,000 of wages, tip outs and other fees, and liquidated damages; post confirmation interest of \$90,000; past attorney’s fees of \$800,000 and the 10% upward adjustment provided for in the Plan in the amount of \$185,000. In order to reserve for future attorney’s fees and interest, the Court determined that the Debtor should escrow \$50,000 per month after a final \$100,000 payment toward the Reserve is made in November. Accordingly, it is hereby

ORDERED that the Reserve shall be \$2,125,000 as of October 2019. Debtor shall make a payment into the Reserve of \$100,000 on or before November 20, 2019 and thereafter pay \$50,000 per month by the 20th of the month beginning in December 2019 until further order of this Court or the District Court in the FLSA cases; it is

FURTHER ORDERED that once this bankruptcy case is closed, the District Court in the FLSA Cases shall have concurrent jurisdiction over the Reserve, including adjusting the amount of the Reserve and authorizing disbursements from the Reserve and the District Court in the FLSA Cases shall be entitled to enforce the Debtor’s obligations under this Order as if this Order were an order of the District Court in the FLSA Cases, so the parties will not

have to reopen this bankruptcy case to adjust the amount of the Reserve, disburse funds from the Reserve or enforce this Order; it is

FURTHER ORDERED that the parties shall include in the proposed Final Decree closing this case the method by which the Class C claimants can monitor Debtor's compliance with the terms of this Order; and it is

FURTHER ORDERED that because the purpose of this Order was to establish the amount of the Reserve and not make a final determination of the amount of any of the Class C claims, the Court does not intend any of its findings or conclusions to be preclusive with respect to the FLSA actions, including on any objections or motions related to discovery.

END OF ORDER

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